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In re Application of
Alexander L. Cheng
Application No. 09/523,185
Filed: March 10, 2000
For: **METHOD AND APPARATUS FOR
PARALLEL OPERATION IN A MULTIPLE
ACCESS NETWORK**

MAIL

Paper No. 5

MAY 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed April 27, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application became abandoned for failure to timely reply to a non-final Office action mailed on June 20, 2003. A Notice of Abandonment was mailed on December 29, 2003.

Petitioner alleges to have timely filed a proper response, by facsimile on September 15, 2003. In support, petitioner has provided as evidence, copies of the response which included a certificate of transmittal signed by applicant.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

- (1) Correspondence will be considered as being timely filed if:
 - (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
 - (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Although the facsimile transmittal sheet does not reflect the Office's official facsimile number, it has been determined that facsimile number used by applicants was a facsimile number associated with the U.S. Patent and Trademark Office. Therefore, it is concluded that the papers were timely filed via facsimile transmission in compliance with the requirements of 37 CFR 1.8(a)(1).

Accordingly, Petitioner has complied with the requirements of 37 C.F.R. §1.8(a) above. The petition is GRANTED.

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the non-final Office action which accompanied the petition as well as the request for change of correspondence address. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Petitioner is reminded that the Official Facsimile Number for all incoming correspondence to the Office is (703) 872-9306. Petitioner may want to note this number in order to avoid any future correspondence problems.



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